

by withholding sums from the employee's compensation and making payment to the official designated to receive sums withheld.

(b) The program is limited to technicians of the National Guard.

(c) Each agreement is consistent with this Directive and contains a clause that subjects the agreement to any statutory amendments occurring after the effective date of the agreement.

(d) The agreement shall comply with the requirements of State law that specify who is eligible for such State-sponsored retirement programs.

(e) The commencement date for contributions must be specified.

(f) Contribution procedures, filing requirements, and payment instructions conform, when practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force.

(g) The agreement does not impose requirements on the Department of Defense that are more burdensome than those requirements imposed on departments, agencies, or subdivisions of the State concerned.

(h) Except to the extent that an agreement may be inconsistent with this Directive, it shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

## **PART 80—PROVISION OF EARLY INTERVENTION SERVICES TO ELIGIBLE INFANTS AND TODDLERS WITH DISABILITIES AND THEIR FAMILIES, AND SPECIAL EDUCATION CHILDREN WITH DISABILITIES WITHIN THE SECTION 6 SCHOOL ARRANGEMENTS**

Sec.

80.1 Purpose.

80.2 Applicability and scope.

80.3 Definitions.

80.4 Policy.

80.5 Responsibilities.

80.6 Procedures.

APPENDIX A TO PART 80—PROCEDURES FOR THE PROVISION OF EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES, AGES 0-2 (INCLUSIVE), AND THEIR FAMILIES

APPENDIX B TO PART 80—PROCEDURES FOR SPECIAL EDUCATIONAL PROGRAMS (INCLUDING RELATED SERVICES) AND FOR

PRESCHOOL CHILDREN AND CHILDREN WITH DISABILITIES (3-21 YEARS INCLUSIVE)  
APPENDIX C TO PART 80—HEARING PROCEDURES

AUTHORITY: 20 U.S.C. 1400 et seq.; 20 U.S.C. 241; 20 U.S.C. 241 note.

SOURCE: 59 FR 37680, July 25, 1994, unless otherwise noted.

### **§80.1 Purpose.**

This part:

(a) Establishes policies and procedures for the provision of early intervention services to infants and toddlers with disabilities (birth to age 2 inclusive) and their families, and special education and related services to children with disabilities (ages 3-21 inclusive) entitled to receive special educational instruction or early intervention services from the Department of Defense under Pub. L. 81-874, sec. 6, as amended; Pub. L. 97-35, sec. 505(c); the Individuals with Disabilities Education Act, Pub. L. 94-142, as amended; Pub. L. 102-119, sec. 23; and consistent with 32 CFR parts 285 and 310, and the Federal Rules of Civil Procedures (28 U.S.C.).

(b) Establishes policy, assigns responsibilities, and prescribes procedures for:

(1) Implementation of a comprehensive, multidisciplinary program of early intervention services for infants and toddlers ages birth through 2 years (inclusive) with disabilities and their families.

(2) Provision of a free, appropriate education including special education and related services for preschool children with disabilities and children with disabilities enrolled in the Department of Defense Section 6 School Arrangements.

(c) Establishes a Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children and Children with Disabilities, and a DoD Coordinating Committee on Domestic Early Intervention, Special Education and Related Services.

(d) Authorizes the publication of DoD Regulations and Manuals, consistent with DoD 5025.1-M,<sup>1</sup> and DoD forms

<sup>1</sup>Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

consistent with DoD 5000.12-M<sup>2</sup> and DoD Directive 8910.1<sup>3</sup> to implement this part.

### § 80.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Agencies (hereafter referred to collectively as “the DoD Components”).

(b) Encompasses infants, toddlers, preschool children, and children receiving or entitled to receive early intervention services or special educational instruction from the DoD on installations with Section 6 School Arrangements, and the parents of those individuals with disabilities.

(c) Applies only to schools operated by the Department of Defense within the Continental United States, Alaska, Hawaii, Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

### § 80.3 Definitions.

(a) *Assistive technology device*. Any item, piece of equipment, or product system, whether acquired commercially or off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(b) *Assistive technology service*. Any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. This term includes:

(1) Evaluating the needs of an individual with a disability, including a functional evaluation of the individual in the individual’s customary environment.

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities.

(3) Selecting designing, fitting, customizing, adapting, applying, main-

taining, repairing, or replacing of assistive technology devices.

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing educational and rehabilitative plans and programs.

(5) Training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities.

(6) Training or technical assistance for professionals (including individuals providing educational rehabilitative services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of an individual with a disability.

(c) *Attention deficit disorder (ADD)*. As used to define students, encompasses attention-deficit hyperactivity disorder and attention deficit disorder without hyperactivity. The essential features of this disorder are developmentally inappropriate degrees of inattention, impulsiveness, and hyperactivity.

(1) A diagnosis of ADD may be made only after the child is evaluated by appropriate medical personnel, and evaluation procedures set forth in this part (appendix B to this part) are followed.

(2) A diagnosis of ADD, in and of itself, does not mean that a child requires special education; it is possible that a child diagnosed with ADD, as the only finding, can have his or her educational needs met within the regular education setting.

(3) For a child with ADD to be eligible for special education, the Case Study Committee, with assistance from the medical personnel conducting the evaluation, must then make a determination that the ADD is a chronic or acute health problem that results in limited alertness, which adversely affects educational performance. Children with ADD who are eligible for special education and medically related services will qualify for services under “Other Health Impaired” as described in Criterion A, paragraph (h)(1) of this section.

(d) *Autism*. A developmental disability significantly affecting verbal and non-verbal communication and social

<sup>2</sup>See footnote 1 to § 80.1(c).

<sup>3</sup>See footnote 1 to § 80.1(c).